

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PENI HALL,

No. C-05-2754 CRB (JCS)

Plaintiff(s),

v.

**NOTICE OF SETTLEMENT
CONFERENCE AND SETTLEMENT
CONFERENCE ORDER**

MONTERO'S CAFÉ, INC., ET AL.,

Defendant(s).

(E-FILING CASE)

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter was referred to Magistrate Judge Joseph C. Spero for settlement purposes.

You are hereby notified that a Settlement Conference is scheduled for **April 3, 2006, at 10:00 a.m.**, in Courtroom A, 15th Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.

It is the responsibility of counsel to ensure that whatever discovery is needed for all sides to evaluate the case for settlement purposes is completed by the date of the Settlement Conference.

Counsel shall cooperate in providing discovery informally and expeditiously.

Lead trial counsel shall appear at the Settlement Conference with the parties. Any party who is not a natural person shall be represented by the person(s) with **unlimited** authority to negotiate a settlement. A person who needs to call another person not present before agreeing to any settlement does not have full authority. If a party is a governmental entity, its governing body shall designate one of its members or a senior executive to appear at the Settlement Conference with authority to participate in the Settlement Conference and, if a tentative settlement agreement is reached, to recommend the agreement to the governmental entity for its approval. An insured party shall appear with a representative of the carrier with full authority to negotiate up to the limits of coverage.

1 Personal attendance of a party representative will rarely be excused by the Court, and then only upon
2 separate written application demonstrating substantial hardship served on opposing counsel and
3 lodged as early as the basis for the hardship is known but no later than the Settlement Conference
4 Statement.

5 This case raises issues under the Americans with Disabilities Act, the Rehabilitation Act, or
6 under similar state law statutes. In the event that injunctive relief is sought by Plaintiff(s) in this
7 matter, the parties are directed to follow the procedure set forth in this paragraph. Lead trial counsel
8 for all parties shall meet and confer in person regarding the settlement of Plaintiff's request for
9 injunctive relief. That discussion shall include the issue of what repairs or other modifications, if
10 any, will be part of any settlement of the matter. Counsel shall attend this meet-and-confer session
11 with full authority to resolve the injunctive issues in the case. This meeting shall occur not later
12 than thirty (30) days prior to the Settlement Conference in this matter.

13 Each party shall prepare a Settlement Conference Statement, which must be lodged with the
14 undersigned's Chambers no later than fourteen (14) calendar days prior to the conference. The
15 Settlement Conference Statement should **not** be filed with the Clerk of the Court, and need not be
16 served on opposing counsel. The parties are encouraged, however, to exchange statements. If
17 Settlement Conference Statements are exchanged, any party may submit an additional confidential
18 settlement letter to the Court not to exceed three (3) pages. The contents of this confidential
19 settlement letter will not be disclosed to the other parties.

20 The Settlement Conference Statement shall not exceed ten (10) pages of text and twenty (20)
21 pages of exhibits and shall include the following:

- 22 1. A brief statement of the facts of the case.
- 23 2. A brief statement of the claims and defenses including, but not limited to, statutory or
24 other grounds upon which the claims are founded, and a **candid** evaluation of the parties' likelihood
25 of prevailing on the claims and defenses. The more candid the parties are, the more productive the
26 conference will be.
- 27 3. A list of the key facts in dispute and a brief statement of the **specific** evidence
28 relevant to a determination of those facts.

- 1 4. A summary of the proceedings to date and any pending motions.
- 2 5. An estimate of the cost and time to be expended for further discovery, pretrial and trial.
- 3 6. The relief sought, including an itemization of damages.
- 4 7. The party's position on settlement, including present demands and offers and a history
- 5 of past settlement discussions. The Court's time can best be used to assist the parties in completing
- 6 their negotiations, not in starting them. Accordingly, Plaintiff(s) must serve a demand in writing no
- 7 later than fourteen (14) days before the conference and Defendant(s) must respond in writing no
- 8 later than eight (8) days before the conference. The parties are urged to carefully evaluate their case
- 9 before taking a settlement position since extreme positions hinder the settlement process.

10 Settlement Conference Statements **may** be submitted on CD-ROM with hypertext links to

11 exhibits. Otherwise, the portion of exhibits on which the party relies shall be highlighted.

12 It is not unusual for the conference to last three (3) or more hours. Parties are encouraged to

13 participate and frankly discuss their case. Statements they make during the conference will not be

14 admissible at trial in the event the case does not settle. The parties should be prepared to discuss

15 such issues as:

- 16 1. Their settlement objectives.
- 17 2. Any impediments to settlement they perceive.
- 18 3. Whether they have enough information to discuss settlement. If not, what additional
- 19 information is needed.
- 20 4. The possibility of a creative resolution of the dispute.

21 The parties shall notify Chambers immediately at (415) 522-3691 if this case settles prior to

22 the date set for Settlement Conference. Counsel shall provide a copy of this order to each party who

23 will participate in the conference.

24 IT IS SO ORDERED.

25 Dated: February 16, 2006

26 

27 JOSEPH C. SPERO

28 United States Magistrate Judge